

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/864,464	FALCO ET AL.
	Examiner Kagnew H. Gebreyesus	Art Unit 1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to May 19, 2005.
2.  The allowed claim(s) is/are 31 and 34-43.
3.  The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached.
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_.
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

## **DETAILED ACTION**

### *Application Status*

In response to the previous Office action, a Final rejection (mailed on November 18, 2004), Applicants filed responses and amendments received on May 19, 2005. Said amendments amended claims 31 and 34-36. Thus, Claims 31 and 34-43 are pending in the instant Office action. Claims 32-33, 44-66 have been cancelled. Claims 31, and 34-43 will be examined herein.

### *Priority*

As previously noted, the instant application is granted the benefit of priority for the U.S. non-provisional Application No. 09/864,464 filed July 20, 1999 (divisional parent) and for U.S. Provisional Application No. 60/093,530 filed July 21, 1998.

### *Information disclosure statement*

The information disclosure statement (IDS) filed on May, 19, 2005 has been considered and entered as indicated by the initial on the IDS.

### *Withdraw- Claim rejection -112 U.S.C. paragraph 112*

1. Applicant's arguments, filed May, 5, 2005 with respect to claims 31-34 have been fully considered and have been accepted as persuasive. The rejection of claims 31-34 has been withdrawn.

### *Examiner's amendment:*

### *Clarification of issue regarding amendment on page 33:*

Applicant's amendment of the title had been withdrawn as indicated in the office action of 11/18/04. The issue regarding the amendment on page 33 refers to the abstract page submitted on 05/24/01 wherein the title of the instant application was indicated.

***Allowable Subject Matter***

Claims 31 and claims 34-43 are allowed as presented.

***Reason for allowance:***

The following is an examiner's statement of reasons for allowance: The closest prior art to the claimed invention is found in genes encoding lysyl-tRNA synthetases from *A. thaliana* (GenBank Accession Number AF125574) which encodes a protein that is 69% identical to SEQ ID NO: 10; and the gene from *L. esculentum* (GenBank Accession Number X94451) which encodes a protein that is 63% identical. Thus, the claimed invention is free of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kagnew H. Gebreyesus whose telephone number is 571-272-2937. The examiner can normally be reached on 8:30 am-5: 30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Achutamurthy ponnathapura can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kagnew Gebreyesus PhD.



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